

**TOWN OF ALTON
ALTON PLANNING BOARD
ZONING ORDINANCE WORKSHOP**

**January 7, 2010
APPROVED 1/19/2010**

Members Present: William Curtin, Chair
Timothy Roy, Vice-Chair
Scott Williams, Clerk
D. Collier, Alternate
Cynthia Balcius (arrived at 5:15 p.m.)

Others Present: Sharon Penney, Town Planner
Stacey Ames, Planning Assistant
Timothy Morgan, ZBA Member
Lou LaCourse, Prospective ZBA Member (arrived at 5:40)

I. CALL TO ORDER

William Curtin, Chair, called the meeting to order at 5:00 p.m.

II. ALTERNATES

D. Collier was appointed a member for this meeting.

III. AGENDA

There were no changes to the Agenda.

IV. PUBLIC INPUT

W. Curtin opened the floor to public input; it will remain open for the duration of the workshop.

V. WORKSHOP DISCUSSION

Amendments #4, #7, #8, #10, and #11 are on the agenda for this evening. W. Curtin again stated that these numbers are not as they will appear on the ballot; this numbering is just for the Planning Department's identification.

Amendment #4: The Planning Board proposes to amend Article 400 Section 463:A;2; Restrictions Governing Use to amend "duplexes and Multi-family dwellings must have a minimum of one acre per unit" and amend it to read "Duplexes and Multi-family dwellings must have a minimum of one acre per structure" and to remove the language "~~and no more than one duplex or multi-family dwelling per lot~~". **Rationale: The purpose of this amendment is to strengthen and clarify the existing language of the ordinance.**

Mr. Randy Glines of 234 Frank C. Gilman Highway made comments on this. He has spoken to his attorney to see if the attorney agreed with some of the comments made by T. Hoopes during a workshop session. Mr. Hoopes had said that “the Board needed to address this language to be in compliance with the State’s new Workforce Housing law of July, 2009.” Mr. Glines had read the law and did not read anything into it that dictated the size of the lot or how many structures/units could be on it. His attorney agreed. Mr. Glines would like to see the language the Board is proposing to strike out left in, and the only change being to address the inconsistencies of dwelling structures and dwelling units. Mr. Glines stated that there is nothing in the Workforce Housing law of July, 2009 that would require that (the verbiage proposed to be removed) to be removed.

S. Williams asked Mr. Glines if it was his opinion that only one building be allowed on that lot. Mr. Glines stated that it is, and not just on that lot, but on any lot. If it is sub-dividable, it should be. S. Williams asked if a judge would hold this up; Mr. Glines said he thought it would. S. Williams and Mr. Glines discussed the pros and cons of subdividing. S. Williams stated that the spirit of the Workforce Housing law was to keep the costs to a minimum; the infrastructure must be kept to a minimum. T. Roy stated that they can not put anything in the ordinances that would inflate the cost of the project. T. Glines said they can put things in the ordinances to force the builders to comply with the normal standards of construction.

T. Roy gave an example and stated that if someone wants to build 50 workforce housing units and it is in out ordinance that it has to be built on 50 acres; that is artificially inflating the price to make it unattractive. S. Williams added that they need to provide something that would be reasonable and judicially equitable. If they are taken to task on this and they lose, it will be taken out of their hands as to how it develops. They have to find something everyone can live with; something that will keep the builder, the owner and the community happy.

Mr. Glines said that he thinks the town is side-stepping some of their responsibility when they do that. In this proposal, the property next to him is a prime example. There will be a road built into this project, which is not up to town specs. There is no regulation requiring the builder to maintain the road; if it is substandard and in disrepair, the town has washed its hands with regard to the utilities and the road. If it is required to be a sub-division and a road built in, it will increase the cost, but the builder can walk away and leave the road in the hands of the town. S. Williams said he thought it would be better if the builder kept control of the road; the town would rather not bear the cost of maintaining it.

C. Balcius came in at this time.

The wording of this ordinance is what stopped the Heath project; with that wording out, he will come back and be able to possibly put 75 units on that parcel. That is zoned residential rural, but it is rural. It would be wrong for the town and wrong for the abutters. S. Williams said they are trying to do something that is fair for the town and fair for the abutters. If there is one building on one lot, a judge probably will not find that workforce housing compatible. Mr. Glines asked S. Williams why he thought he could be a judge and say what a judge is going to rule. C. Balcius stated that she had been told that the state has put off enforcing this because of the issues; she doesn’t know why the Board is pushing to do anything until it is straightened out.

S. Penney pointed out that there are examples of compromise attached to the agenda. C. Balcius asked if tweaking the language this way could allow seventy-five units on the Heath property. S.

Penney answered that in this case it does because the issue was the syntax of the language. The parameter of acreage was added. C. Balcius asked if impact on the infrastructure had been considered; impact fees are in place for something like that. S. Penney explained that this was a reaction to the legislation, which moved in quickly. Demand for rental property has gone down due to the economic downturn. This unfunded state mandate is now in limbo because it is so hard to implement. They should either try to make this a non-impactive as possible at this time, or bag it completely.

C. Balcius asked what the new proposal is that would make it clearer. S. Penney explained that it reduces the maximum on the acreage. It is difficult to make a one-size fits all because of the differences from one parcel to another. C. Balcius would like to see something done with the site plan in terms of landscaping and screening. S. Penney said something needs to be done with this ordinance; it was a reaction to a quick mandate and now it needs to be made right.

T. Morgan asked about the proposal on page 3; would each dwelling unit require an acre. S. Ames answered that it would; each unit. The prescribed number of units is not more than five per structure. For example, a duplex would require two acres. C. Balcius asked about the difference between the new proposal and the way it is in the books now; S. Ames explained that now it says one acre per unit with no more than one structure per lot, which would create a maximum of five units, even on a fifteen acre parcel. The new proposed allows three structures on a fifteen acre lot, with a maximum of fifteen units, keeping slopes, wetlands, and roadways in mind. Workforce housing rationale is that it has to be reasonable; you have to offer the builder an opportunity to provide the housing in a cost-effective manner.

S. Ames said that if they keep the one unit per acre and eliminate the requirement to have only one structure per lot that still leaves plenty of opportunity for development. S. Penney stated that there are two problems with this ordinance; there is the acreage to support a structure part and then the maximum number per lot part.

Mr. Glines asked about the language to be left in the ordinance. He asked if the word unit, in "...one acre per unit," was going to be changed to structure. S. Ames said no; originally they wanted to do that, but to come to a happy medium, they are leaving unit and removing the strikeout sentence. Mr. Glines clarified that on a fifteen acre parcel that would limit it to fifteen units. S. Ames agreed; fifteen units, three structures, with up to five units per structure. Members voiced agreement with this; it is more in line with what a lot can bear and shows reasonableness.

C. Balcius feels that this change coupled with the changes to the Site Plan Regulations is helping to accomplish what they want to see in the town. Mr. Glines asked if they are going to insert the word "dwelling" between "per" and "unit" in this ordinance, so it would be one acre per dwelling unit. There was a conversation concerning the wording dwelling, structure and unit. There is agreement that the language has to be consistent.

C. Balcius asked about the language for Amendment #4; S. Penney asked if she is clear on the wording in Amendments #7 and #8, and how it would apply in Amendment #4. T. Roy suggested putting the rationale on the ballot; it was also discussed to put the example used in Amendment #4 on the ballot.

Mr. Glines asked again to leave one building per lot. Builders have the avenue to seek a variance for anything; they can go to the ZBA and ask for a variance based on hardship. If you can't show hardship to the town, then a judge is not going to hear it and listen to it. The threshold is being put upfront where it should be. The abutters should be put first, before the builder who wants to make the change in the neighborhood. There should be a challenge upfront by the town. This change in the ordinance is going to facilitate the project the original ordinance helped to shut down. It should not be made easy to build there. If the builder cannot provide enough data to the town to qualify for a variance, they should not build there. Then let them go to court if they feel they have a strong enough case. Don't amend this ordinance because of being afraid of going to court; let the builder go for a variance.

C. Balcius said they are not amending because of fear of going to court, they are amending because it is very confusing. She also made the point that the Board not only represents the abutters, but they also represent the people who own the property they are talking about. Those people also have certain rights; the Board is trying to balance those rights with those of the abutters in the context of the entire town. Their job is not to throw up hurdles, but to put up reasonable ordinances that have in mind both the abutters and the owners.

There was further discussion concerning the interpretations of this amendment. Mr. Glines feels that the threshold should be set high, so that builders would have to go to the ZBA and get a variance for the scope of building that has been discussed. D. Hussey stated that they are trying to set a standard that is reasonable and prudent, and that is defensible. S. Penney has concerns about creating a scenario where the ZBA is the immediate fallback because that is not the intent in every situation. D. Hussey and C. Balcius discussed how this is down from ten or twelve structures to three; they are also considering the impact on the land.

Mr. Glines acknowledged that he is not going to win his point, but he did ask for clarification that the proposed amendment would limit that piece of land to fifteen units. The town has to vote on it; the Board is recommending it that way.

There was discussion about public participation at Planning Board meetings and workshops; the Board would like more input from the public. Mr. Glines senses reluctance in the Board to do anything to challenge this state law. He understands they have all been told this is how it's going to be, but if they read the law, it does not mandate the town to approve workforce housing. There was further discussion concerning the ramifications if the court sided with the builder.

T. Morgan commented that the language on page 3, which shows some suggestions as to the wording, should reflect the terms "dwelling unit" and "dwelling structure", rather than just "unit" and "structure."

C. Balcius made a motion to have Amendment #4 read: The Planning Board proposes to amend Article 400 Section 463:A;2; Restrictions Governing Use to amend "Duplexes and Multi-family dwellings must have a minimum of one acre per unit" and amend it to read "Duplexes and Multi-family dwelling structures must have a minimum of one acre per dwelling unit" and to remove the language "~~and no more than one duplex or multi-family dwelling per lot~~". Rationale: The purpose of this amendment is to strengthen and clarify the existing language of the ordinance. Motion was seconded by S. Williams and passed by unanimous vote of the Board.

S. Williams suggested putting an example on the page with the amendment; this will help clarify the intent. It was suggested that such an example could be “one dwelling structure, with a maximum of five dwelling units, requires a minimum of five acres. Being consistent with the language was discussed.

Amendment #7: The Planning Board proposes to amend Article 200 Definitions, to amend the definition “Dwelling Unit: One room or group of rooms, constituting a separate independent housekeeping establishment for owner occupancy, rental or lease; located within a dwelling structure and physically separated from any other dwelling unit which may be in the same dwelling structure, forming a single habitable unit with facilities used or intended to be used by a single family for living, sleeping, cooking, and eating. **Rationale: To clarify the difference between a dwelling structure and a dwelling unit.**

S. Williams suggested adding the word “dwelling” after habitable to make it “dwelling unit”.

S. Williams made a motion to put Amendment #7 on the ballot as amended by adding the word “dwelling” after habitable, to make it a “habitable dwelling unit”. D. Hussey seconded the motion, which passed by unanimous vote.

Amendment #8: The Planning Board proposes to amend Article 200 Definitions, to include a definition “Dwelling Structure: any enclosed space wholly or partly; which may contain one or more dwelling units; used or intended to be used for living, sleeping, cooking, and eating.” **Rationale: To clarify the difference between a dwelling structure and a dwelling unit.**

S. Williams made a motion to place Amendment #8 as read on the ballot. D. Hussey seconded the motion, which passed by unanimous vote.

Amendment #10: The Planning Board proposes to amend Article 400 Zoning District Regulations Section 441 Boundary Description to extend the Residential Commercial zone beyond its current boundary description through the Rural Residential zone along Route 11 headed south toward New Durham along the east side of the road. A full description may be viewed at the Planning Department. **Rationale: To allow commercial entities more opportunity for development within Alton, stabilizing the tax rate, provide job opportunity within the community and restrict commercial development to the outskirts of town maintaining the small town, village look.**

Amendment #11: The Planning Board proposes to amend Article 400 Zoning District Regulations Section 461 Boundary Description to decrease the boundaries of the Rural Residential zone from its original boundaries to accommodate the increase in the Residential Commercial zone. A full description may be viewed at the Planning Department. **Rationale: To allow commercial entities more opportunity for development within Alton, stabilizing the tax rate, provide job opportunity within the community and restrict commercial development to the outskirts of town maintaining the small town, village look.**

Both of these amendments are on here because if they change one area, they have to change the other area.

C. Balcius clarified that these are the same lots they had discussed; it is up to Lot 54. She stated that her only issue is the rationale talking about maintaining the small town village look.

D. Hussey made a motion to remove Amendment #10 and Amendment #11 from the ballot. W. Curtin seconded the motion, which passed by unanimous vote.

W. Curtin stated that the Board is doing this because at the meeting on Tuesday night there was a lot of discussion and some very valid points were made. The Planning Board is conducting meetings this spring, hopefully with a lot of public participation to help plan possible commercial location.

D. Hussey feels that this is very serious. They need to take their time and look at it; this is a very important thing for the town of Alton. Should they do commercial districts? Should they do different light commercial zones? Should they do heavy commercial zones? There are a lot of factors to look at; they want to look at it and get it right the first time. The zoning board and the business people in town should be involved. There was discussion concerning having Planning Board members have a talk with business people for their input. S. Penney talked about the normal changes that come over time. D. Hussey talked about how Rochester had been reactionary; he would like Alton to do better and plan for it. This is very important for the town; if it is done right, it can be controlled. C. Balcius agreed that it has to be tailored to Alton; this is a tourist town. We want to keep the tourists coming, but also grow as appropriate. There was discussion concerning the impact on taxes and the infrastructure. There was discussion concerning expansion of the water system.

Everyone needs to get on board so that there is less argument when the proposal is made.

D. Hussey made a motion to adjourn; motion was seconded by S. Williams and passed unanimously.

Meeting adjourned at 6:15 p.m.

Respectfully submitted,

Mary Tetreau
Recorder, Workshop Session